



**Interoffice Memorandum**

September 4, 2020

TO: Mayor Jerry L. Demings  
and the County Commissioners

FROM: Joseph C. Kunkel, P.E., Director, Public Works Department *Joseph C. Kunkel*

CONTACT PERSON: **Renzo Nastasi, AICP, Manager** *RN*  
**Transportation Planning Division**

PHONE NUMBER: **(407) 836-8072**

SUBJ: **Interlocal Agreement between Orange County and the Town of Oakland for a Roundabout at the Intersection of Oakland Avenue and Old County Road 50**

Orange County and the Town of Oakland have agreed to complete a roundabout intersection project at Oakland Avenue and Old County Road 50. The Town of Oakland is finalizing the intersection design and has acquired the necessary right-of-way for the intersection project.

Through the Local Agency Program (LAP), the Florida Department of Transportation (FDOT) has budgeted \$1,201,000 for the construction of this project in its work program in Fiscal Year 2020/2021. Orange County has requested that FDOT increase the budgeted amount to \$2,371,100 to match the current construction cost estimate. In the event a funding shortfall occurs, Orange County and the Town of Oakland have agreed to equally fund the shortfall up to the County's maximum contribution of \$700,000. The Town of Oakland has committed to funding the construction, engineering, and inspection requirements for this project as well as take over maintenance of the roundabout following construction.

The County Attorney's Office, Risk Management Division, Highway Construction Division, Public Works Engineering Division, and the Transportation Planning Division have reviewed this Agreement and find it acceptable.

Action Requested: **Approval and execution of Interlocal Agreement between Orange County, Florida, and the Town of Oakland, Florida, regarding a Roundabout at the Intersection of Oakland Avenue and Old County Road 50 in the amount of \$2,371,100. District 1.**

JCK/RN/BS/am

Attachments

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**INTERLOCAL AGREEMENT**

**between**

**ORANGE COUNTY, FLORIDA**

**and the**

**TOWN of OAKLAND, FLORIDA**

**regarding a**

**ROUNDBOUT**

**at the**

**INTERSECTION of OAKLAND AVENUE**

**and**

**OLD COUNTY ROAD 50**

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Approved by the Orange County  
Board of County Commissioners

**OCT 13 2020**

, 2020

Approved by the Town of Oakland  
Town Commission

**AUGUST 25**

, 2020

**INTERLOCAL AGREEMENT**  
**between**  
**ORANGE COUNTY and the TOWN of OAKLAND**  
**regarding a**  
**ROUNDBOUT**  
**at the**  
**INTERSECTION**  
**of**  
**OAKLAND AVENUE and OLD COUNTY ROAD 50**

**THIS INTERLOCAL AGREEMENT** (“Agreement”) is made and entered into by and between **Orange County, Florida**, a political subdivision and charter county existing under the laws and constitution of the State of Florida (“**County**”), whose address is Post Office Box 1393, Orlando, Florida 32802-1393, and the **Town of Oakland**, a municipal corporation created and existing under the laws of the State of Florida (“**Town**”), whose address is 220 N. Tubb Street, Oakland, Florida 34760.

**WITNESSETH:**

**WHEREAS**, the County has the authority pursuant to Section 125.01, Florida Statutes, to enter into agreements with another governmental entity or agency for joint performance, or performance by one on behalf of the other, of any of either entity’s or agency’s authorized functions;

**WHEREAS**, the Town has authority pursuant to Section 166.021, Florida Statutes, to enter into agreements;

**WHEREAS**, presently, the intersection of Oakland Avenue and Old County Road 50 (“**Intersection**”) is part of the County road system, and is therefore controlled and maintained by the County;

**WHEREAS**, traffic to and from the Town passes through the Intersection, and the operation of the Intersection affects the citizens, property owners and businesses of the Town;

**WHEREAS**, the County and the Town have determined that traffic constraints exist at the Intersection;

**WHEREAS**, the County and the Town have evaluated potential modifications and improvements to the Intersection to alleviate these traffic constraints and to enhance safety at the Intersection, and have determined that the design, permitting, construction, and operation of a roundabout at the Intersection will alleviate some of those traffic constraints and enhance the safety of the Intersection;

**WHEREAS**, the County and the Town therefore desire to cooperate in designing, permitting and constructing a roundabout at the Intersection for the mutual benefit of the citizens, property owners, and businesses of both the County and the Town, which project is generally described on **Appendix “A”** attached hereto and incorporated herein by reference (the **“Roundabout Project”**);

**WHEREAS**, the Roundabout Project will occur in the area that includes Old County Road 50 from six hundred (600) feet west of J.W. Jones Road, and Oakland Avenue from State Road 50 to one thousand (1,000) feet north of State Road 50, which area is generally depicted on **Appendix “B”** attached hereto and incorporated herein by reference (the **“Roundabout Area”**);

**WHEREAS**, the County and the Town understand that during the State of Florida’s 2020-2021 fiscal year, One Million Two Hundred and One Thousand Dollars (\$1,201,000.00) in Federal funds are available in the State of Florida Department of Transportation’s (**“FDOT”**) Work Program to help fund the construction of the Roundabout Project, funded through MetroPlan Orlando;

**WHEREAS**, accordingly, the County is seeking to enter into a Local Agency Program (**“LAP”**) Agreement with the FDOT to sponsor the Town for LAP funds in the amount of at least One Million Two Hundred and One Thousand Dollars (\$1,201,000.00) and up to Two Million Three Hundred Seventy-One Thousand One Hundred Dollars (\$2,371,100.00) in Federal funds to help fund the construction of the Roundabout Project;

**WHEREAS**, the County and the Town desire to enter into this Agreement to set forth their respective duties and responsibilities relating to the Roundabout Project and Roundabout Area;

**WHEREAS**, the County and the Town are entering into a separate interlocal agreement regarding the transfer of jurisdiction of Oakland Avenue and Old County Road 50, portions of which lie within the boundaries of the Roundabout Area, as depicted in Appendix “A” and Appendix “B”;

**WHEREAS**, the Town is willing to acknowledge that upon substantial completion of the Roundabout Project the Town will have jurisdiction over public roads within the Roundabout Area, or portions thereof, for purposes of operation and maintenance and traffic control to the extent that any of those public roads, or portions thereof, did not exist on the Effective Date of this Agreement; and

**WHEREAS**, however, as with the separate interlocal agreement, this Interlocal Agreement is not intended to apply and shall not be construed as applying to the subject of which law enforcement authority (the Town’s Police Department or the Orange County Sheriff’s Office) has jurisdiction to enforce traffic laws within the Roundabout Area (see Section 316.640, Florida Statutes).

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements herein contained, and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged and agreed, County and Town agree as follows:

**Section 1. Recitals.** The foregoing Recitals are true and correct and form a material part of this Agreement.

**Section 2. Roundabout Project.**

(a) **Design, Permitting, and Right-of-Way Acquisition by the Town.** Within a reasonable period of time following the Effective Date of this Agreement, the Town shall complete the design of the Roundabout Project, obtain all necessary permits for the Roundabout Project, including but not limited to Environmental Resource permits, U. S. Army Corps of Engineers permits, FDOT connection permits, the N.P.D.E.S. permit package, Florida Fish and Wildlife Conservation Commission permits, dewatering permits (and be the signatory owner of all permits), and acquire or otherwise obtain all necessary right-of-way for, and obtain any other property rights, licenses and other interests needed for, the Roundabout Project and the construction of the Roundabout Project by the County. The Town shall submit all design,

permitting and right-of-way documents for the Roundabout Project to the County for its review and approval. Thereafter, the County shall submit copies of the documents, as approved, to the FDOT for its review and approval.

**(b) Documentation from Town.** Within a reasonable period of time following the Effective Date of this Agreement, the Town, at no cost to the County, shall to the best of its ability provide the County with:

(1) copies of all surveys, soils reports, studies, and data that the Town has in its possession related to the Roundabout Area and Roundabout Project;

(2) information and documentation identifying any Town-owned or Town-leased property potentially impacted by the Roundabout Project; and

(3) any other information and documentation that the Town may have in its possession that the County may deem appropriate or helpful to undertake construction of the Roundabout Project.

This obligation on the Town's part to provide the County with such information and documentation shall not be construed to mean that the Town attests to the accuracy and/or completeness of such information and/or documentation.

**(c) Conveyance of Temporary Construction Easements and the Like by the Town.** At no cost to the County, the Town shall timely grant the County all temporary construction easements and other rights and interests over its property within the limits of the Roundabout Project area and the Roundabout Area that may be necessary for the County to construct the Roundabout Project.

**(d) Bid Package by the Town for Construction.** The Town shall prepare and deliver to the County for review a bid package for the construction of the Roundabout Project, pursuant to FDOT standards and approval.

**(e) Construction by the County; LAP Agreement.** Subject to the Town satisfying all of its responsibilities and duties under this Agreement, including those described in Sections 2(a), (b), (c)

and (d), and subject to Section 3, the County shall include the Roundabout Project in its Capital Improvement Program, and cause the Roundabout Project to be constructed by a duly qualified contractor. The County shall be responsible for MetroPlan Orlando project documentation. The Roundabout Project shall be completed pursuant to the FDOT approved final design plans, as those plans may have been revised. The County shall also be responsible for using its best efforts to enter into a LAP Agreement with the FDOT to help fund the construction of the Roundabout Project with an award or grant of at least **One Million Two Hundred and One Thousand Dollars (\$1,201,000.00)** and up to **Two Million Three Hundred Seventy-One Thousand One Hundred Dollars (\$2,371,100.00)** in Federal funds (the “LAP Agreement”). The amount of \$2,371,100.00 is the Town’s design engineer’s good faith cost estimate to construct the Roundabout Project. Subject to and contingent upon the County and the FDOT entering into the LAP Agreement with an award or grant of at least \$1,201,000.00, the County shall select a duly qualified contractor under the County’s procurement and bid procedures to construct the Roundabout Project, and the County shall select a duly qualified contractor by a separate bid to perform CEI services. The County shall provide the Town with a copy of the fully executed contracts within a reasonable period of time after execution by the last party to approve and sign it. The County shall use its best efforts to ensure that the Roundabout Project is constructed within a reasonable period of time from the date the County issues a notice to proceed to the construction and CEI contractors. The County shall timely communicate to the Town any material delays, cost overruns, and/or substantive design issues that may arise during the Roundabout Project. Upon completion of the Roundabout Project, the County’s Public Works Director shall promptly so notify the Town’s Public Works Director that the Roundabout Project has been completed.

(f) **Costs for Design, Permitting and Acquisition of Right-of-Way.** The Town shall be solely responsible for all the costs of designing, permitting, and acquiring or otherwise obtaining all necessary right-of-way and other interests for the construction of the Roundabout Project, including all the costs of any supplemental design services required by the FDOT and any other post-design services.

**(g) Costs for Construction, Change Orders, and CEI.**

(1) Subject to the County's maximum contribution of **Seven Hundred Thousand Dollars (\$700,000.00)** under this Agreement as set forth in Section 2(g)(3), the Town and the County agree to divide the costs of construction equally (as may be needed, depending on the amount of funding received under the LAP Agreement and from MetroPlan Orlando), and to divide the costs of cost overruns and change orders equally, except that any cost overruns attributable to a change order request by the Town (and agreed to by the County) shall be solely borne by the Town. The Town and County agree to mutually share the right to approve (or not approve) any proposed change orders. The Town's decision regarding any proposed change order communicated to the Town shall be communicated expeditiously to the County so as not to delay the construction of the Roundabout Project. The Town and County also agree that cost overruns shall not be paid under the LAP Agreement between the County or the FDOT, or from Federal funds awarded under the LAP Agreement, but shall instead be paid jointly by the Town and the County (subject to the County's maximum contribution) with funds from sources *other than* the LAP Agreement ( except that, as set forth above, any cost overruns attributable to a change order request by the Town shall be borne solely by the Town).

(2) The Town and the County agree that the Town shall be solely responsible for all CEI costs, which the parties estimate to be approximately **Three Hundred Thousand Dollars (\$300,000.00)**, except that if the County enters into a LAP Agreement with the FDOT under which funds in the amount of \$2,371,100.00 are granted and awarded for construction costs, the Town and the County shall split the CEI costs equally, subject to the County's maximum contribution of \$700,000.00 under Section 2(g)(4).

(3) The parties acknowledge and understand that the costs of construction may ultimately exceed the amount of \$2,371,100.00, which is the Town's design engineer's good faith cost estimate to construct the Roundabout Project. The Town and the County agree that the County shall use the funds from the LAP Agreement to reimburse the parties for a portion or all of the construction costs



(assuming the LAP Agreement is executed, which is a material contingency under this Agreement). Unless the funds from the LAP Agreement reimburse the parties for all of the construction costs, the Town and the County agree to seek to fund the balance of the construction costs (the amount exceeding \$1,201,000.00 or other amount received under the LAP Agreement), or a portion thereof, by requesting full FDOT Work Program Funding through MetroPlan Orlando (or even partial FDOT Work Program Funding through MetroPlan Orlando). To the extent the Town and the County may be unable to obtain full (or partial) FDOT Work Program Funding through MetroPlan Orlando, the Town and the County agree to share equally in paying the balance of the construction costs above the \$1,201,000.00 or other amount received under the LAP Agreement and any partial FDOT Work Program Funding through MetroPlan Orlando. To that end, the Town agrees to budget in advance **Seven Hundred Thousand Dollars (\$700,000.00)** for construction costs and change order costs, and the County agrees to budget in advance **Seven Hundred Thousand Dollars (\$700,000.00)** for construction costs, change order costs, and one-half of CEI costs for which the County may be responsible under Section 2(g)(2).

(4) The County's maximum contribution under this Agreement shall be \$700,000.00. Such contribution shall be limited exclusively to the portions of construction costs and change order costs for which the County is responsible under Sections 2(g)(1) and (3), and the portion of CEI costs for which the County may be responsible under Section 2(g)(2).

(5) Upon the County issuing a notice to proceed to the construction contractor, the Town shall, within thirty (30) days' notice from the County, pay the County the Town's \$700,000.00 contribution for construction costs and change order costs, and pay the County \$300,000.00 for CEI costs. The County shall deposit the Town's total payment of \$1,000,000.00 in a separate account ("Account"), and thereafter expend those Town funds solely for construction costs, change order costs, and CEI costs. The County shall make payments to its contractors for construction and CEI pursuant to the payment procedures set forth in the respective contracts. Except for payments to the contractors from other sources, such as LAP funds, and, if approved, FDOT Work Program Funding through MetroPlan

Orlando, and cost overruns attributable to change order requests by the Town, payments to the contractors shall consist of one-half Town funds and one-half County funds. The County shall maintain records of the Account, and the Town may, at any time, upon at least five (5) business days' notice, inspect any or all records maintained by the County related to the Account. Within sixty (60) days after completion of the Roundabout Project and final payment to the contractors, the County shall provide the Town with an accounting of the Town's funds expended from the Account, and return any unexpended Town deposited funds to the Town within fifteen (15) days thereafter.

**(h) Inspection of Roundabout Project.** The Town shall have the right, at its discretion, to inspect the Roundabout Project throughout the construction phase.

**(i) Maintenance and Repair of Improvements within Roundabout Area.** Once the Roundabout Project has been completed and the applicable elements of the construction contractor's warranty period have ended, the Town shall be permanently responsible for all maintenance, improvements, replacement, repair, relocation, inspection, and modification of the improvements within the Roundabout Area. Notwithstanding the preceding sentence, any and all repairs, replacement, relocation, improvement, inspection, modification, maintenance, and other actions related to public utilities owned or controlled by the County within the Roundabout Area shall be at the County's sole expense when necessitated or caused by actions of the County (which expense is not included as part of the County's contribution under this Agreement). Conversely, any and all repairs, replacement, relocation, improvement, inspection, modification, maintenance, and other actions related to public utilities owned or controlled by the County within the Roundabout Area shall be at the Town's sole expense when necessitated or caused by actions of the Town (which expense is not included as part of the Town's contribution under this Agreement).

**Section 3. LAP Agreement; Contingency.** The Town and the County agree that a LAP Agreement with the FDOT with an award or grant of at least \$1,201,000.00 is absolutely necessary and a contingency for the County to undertake construction of and help fund the cost to construct the

Roundabout Project. Accordingly, if for any reason the County is unable to enter into such a LAP Agreement with the FDOT, this Agreement shall automatically be terminated and become null and void when the County notifies the Town under Section 5(g) that it was unable to enter into such a LAP Agreement.

**Section 4. Jurisdiction of Roundabout Area; Scope; Limitations.**

**(a) Town's Acceptance of Jurisdiction.** Upon substantial completion of the Roundabout Project, the Town hereby acknowledges jurisdiction over public roads within the Roundabout Area to the extent that any of those public roads, or portions thereof, did not exist on the Effective Date of this Agreement, and therefore were not (and could not be) transferred to the Town pursuant to the separate interlocal agreement between the Town and the County referenced above.

**(b) Scope of Town's Jurisdiction.** The Town's jurisdiction over the public roads within the Roundabout Area described in Section 4(a) means the authority and responsibility to operate and maintain, control, repair, replace, inspect, modify, or improve such area, as the term "road" is defined by Section 334.03(22), Florida Statutes, and to regulate, warn, guide, or control traffic and pedestrians in such area as authorized under Section 316.006, Florida Statutes, regardless of any future alteration, realignment, construction, extension, widening, or renaming of such Roundabout Area.

**(c) Torts.** Pursuant to Section 337.29(3), Florida Statutes, to the extent that sovereign immunity has been waived, liability for torts arising from events on the public roads described in Section 4(a) shall be in the Town. However, nothing in this Agreement waives or is intended to waive the sovereign immunity of the Town.

**(d) Powers.** Also pursuant to Section 337.29(3), Florida Statutes, except as otherwise provided by law or this Agreement, the Town shall have the same governmental, corporate, and proprietary powers with relation to the Roundabout Area that the Town has with relation to other public roads and rights-of-way within the Town.

(e) **Limitations.** Unless otherwise agreed to in advance by the County, the Town shall not close or barricade the Roundabout Area to vehicular traffic, other than temporarily for road maintenance, road repair, accidents, or miscellaneous special events, such as road races.

**Section 5. General Provisions.**

(a) **Validity.** The County and Town each represent and warrant to the other its respective authority and power under Florida law to enter into this Agreement, acknowledge the validity and enforceability of this Agreement, and waive any future right of defense based on any claim of illegality, invalidity or unenforceability of any nature.

(b) **Governing Law; Venue.** This Agreement is governed by and construed in accordance with the laws of the State of Florida, and venue for any action arising out of or related to this Agreement shall be in the Circuit Court of the Ninth Judicial Circuit in and for Orange County, Florida. Both parties waive any trial by jury.

(c) **Remedies.** Upon the failure of either party to perform any of its obligations under this Agreement, the aggrieved party shall have the right to pursue any remedy available in law, equity, or otherwise, but before a court action is maintained, such party must comply with the mandatory negotiation procedures described in Chapter 164, Florida Statutes, incorporated herein by reference.

(d) **Full Agreement.** This Agreement contains the entire agreement of the parties with respect to the Roundabout Project, except to the extent that terms of this Agreement are supplemented by the separate interlocal agreement between the parties referenced above. Those portions of any previous agreements and understandings of the parties with respect to the Roundabout Project that are inconsistent with this Agreement are pre-empted by this Agreement.

(e) **Amendments and Waivers.** Any amendments to this Agreement shall only be deemed enforceable if in writing and signed by all parties hereto. No waiver of any provision of this Agreement shall be effective unless in writing and signed by the party against whom it is asserted. Any waiver shall

be applicable only to the specified instance to which it relates and shall not be deemed a continuing or future waiver unless expressly deemed otherwise in writing.

**(f) Sovereign Immunity.** Nothing contained herein shall constitute a waiver by either party of sovereign immunity or the provisions of Section 768.28, Florida Statutes. Also, neither party assumes any liability for the acts, omissions, and/or negligence of the other party.

**(g) Notices.** All notices, elections, requests, and other communications hereunder shall be in writing and shall be deemed given and received in the following circumstances: (i) when personally delivered; or (ii) three business days after being deposited in the United States Mail, postage prepaid, certified or registered; or (iii) the next business day after being deposited with a recognized overnight mail courier delivery service; or (iv) when transmitted by facsimile or telecopy transmission, with receipt acknowledged upon transmission. All notices, elections, requests, and other communications hereunder shall be addressed as follows (or to such other person or at such other address, of which any party hereto shall give written notice as provided herein):

If to the County:	Public Works Director Orange County Public Works 4200 S. John Young Parkway Orlando, Florida 32839-9205 Phone: (407) 836-7970 Telecopy: (407) 836-7716
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If to the Town:	Town Manager Town of Oakland 220 N. Tubb Street Oakland, Florida 34760 Phone: (407) 656-1117 Telecopy: (407) 656-2940
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In all cases, notices shall be deemed delivered to a party only upon delivery of copies to the persons indicated above in the same manner as for the party being notified. Also, a party may change its address or official for notice purposes by giving the other party notice as provided herein.

**(h) Ambiguities.** Both parties have been allowed equal input regarding the terms and wording of this Agreement, and have had the benefit of consultation with their respective legal counsel

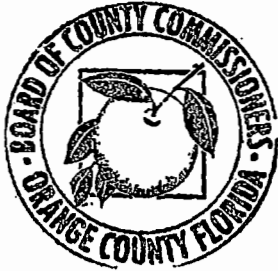
prior to its execution, such that all language and wording herein shall be construed equally against the parties.

(i) **Headings.** The headings or captions of sections or subsections used in this Agreement are merely for the convenience of the parties for reference only and are not intended to define or limit their contents, nor are they intended to affect the construction of or to be taken into consideration in interpreting this Agreement.

(j) **Effective Date.** This Agreement shall take effect on the date of approval by the County, or on the date of approval by the Town, whichever date is later ("**Effective Date**").

*[THE REST OF THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK. THE SIGNATURE PAGE FOLLOWS THIS PAGE.]*

IN WITNESS WHEREOF, the County and the Town have caused this Agreement to be executed on their respective behalf as of the dates written below.



ORANGE COUNTY, FLORIDA  
By: Board of County Commissioners

By: *Jerry L. Demings*  
for Jerry L. Demings, County Mayor  
Date: OCT 13 2020, 2020

ATTEST: Phil Diamond, CPA, County Comptroller,  
as Clerk of the Board of County Commissioners

By: *Katie Smith*  
Deputy Clerk

Print Name: Katie Smith

TOWN OF OAKLAND  
By: Town Commission

By: *Kathy Stark*  
Kathy Stark, Mayor  
Date: 8/25, 2020

ATTEST:

By: *Elise Hui*  
~~Kimberly Gay, Town Clerk~~  
Elise Hui



**Appendix "A"**

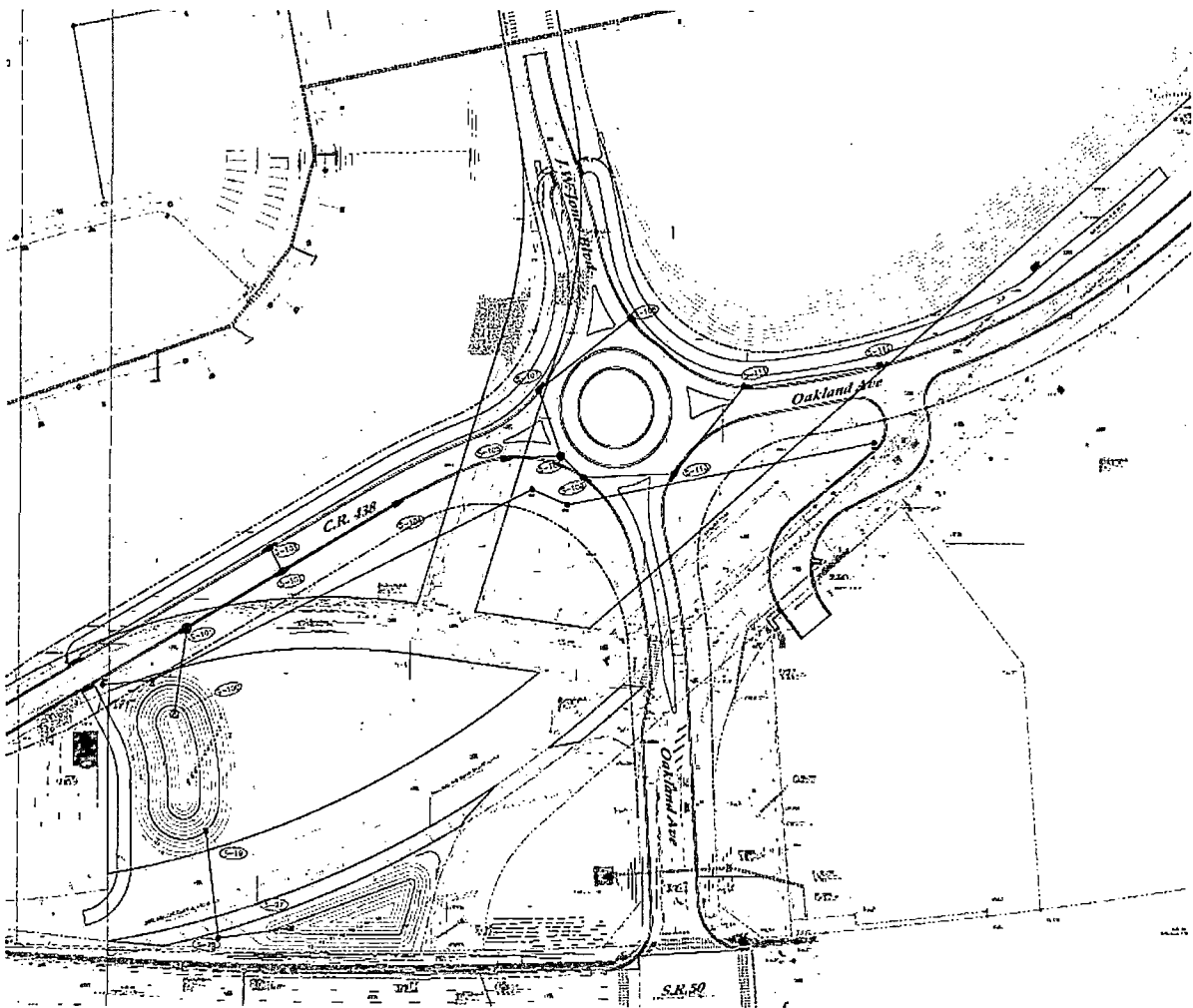
**Description of Roundabout Project**



## Appendix "A"

### Description of the Roundabout Project

The project is to construct improvements to the intersection of Oakland Avenue (CR 438), Old County Road 50 and J. W. Jones Road. There currently exist two non-signalized, three-way intersections with rural sections on all three legs of each intersection. The proposed improvements will be to reconstruct the two intersections into a Roundabout with four legs.



## **Appendix "B"**

### **Description of Roundabout Area**



**Appendix "B"**  
**Interlocal Agreement between Orange County, FL and the Town of Oakland, FL regarding a Roundabout at the Intersection of Oakland Avenue and Old County Road 50**

Author: George Shupp  
 Checked by:  
 Date Saved: 6/1/2020

*All data, information, and maps are provided "as is" without warranty or any representation of accuracy, timeliness of completeness*